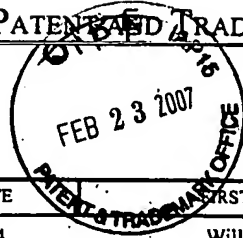




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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,516	01/15/2004	William Orman Wollgast	03006	5804

39047	7590	11/28/2006
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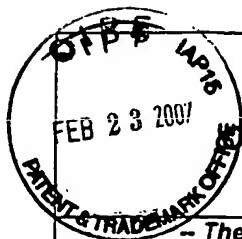
MACHETTA LAW FIRM, P.C  
14614 FALLING CREEK DRIVE  
HOUSTON, TX 77068

EXAMINER	
BEACH, THOMAS A	

ART UNIT	PAPER NUMBER
3671	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## Office Action Summary

Application No.

10/758,516

Applicant(s)

WOLLGAST ET AL.

Examiner

Thomas A. Beach

Art Unit

3671

The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 06/30/06.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

Art Unit: 3671



**DETAILED ACTION**

***Claim Objections***

1. Claims 1-4 are objected to because of the following informalities: throughout the claims there is improper capitalization of words; since claim are in one sentence format there should only the first word capitalized. The preamble is vague and indefinite as to whether a skidsteer loader, or a backhoe or similar work-type vehicle is being claimed, furthermore "or similar work-type vehicle" is vague and indefinite on its own since the meets and bounds of what is similar and what is not is not clear. Also, the preamble includes "for use in constructing a skimmer box" which is method claim language in preamble in an apparatus claim which should be deleted. It is unclear from the preamble if an attachment or a skimmer box is to be claimed. On line 6 of claim 1, "the arms" lacks antecedent basis. On line 9 of claim 1, the "two open cutouts" are not functionally related to the other elements and should be claimed with relation to other elements, for example where or on which element the cutouts are made.

Claims 2 and 3 include "#" on lines 1 respectively and should be deleted.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Pullman 5,909,961.

Pullman discloses a digging attachment and method of constructing that attachment (16) for securement to a work-type vehicle that could be used as a skimmer

Art Unit: 3671

box for a swimming pool, having a connecting frame (24) with extensions (22A) near the bottom of said connecting frame allowing for the connection to a vehicle latching mechanism; a base (16), shaped like a box, with five sides and an open end, including a top side (26/27), a bottom side, a left side (19), a right side (18) and a back side (16) as well as two open cutouts (unnumbered openings on top side); the said open side has edges (60) that are shaped to cut through the surface; the back side of said base (16) connected perpendicular to said connecting frame (14) and near the bottom so that the base is directed just above the latching mechanism and along the opposite side of the extensions providing support when the vehicle is attached.

***Claim Rejections - 35 USC § 103***

3. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pullman 5,909,961 alone.

As concerns claims 2-3, it would have been an obvious matter of design choice to modify Pullman to include the range of as 15 to 30 inches wide by 15 to 30 inches high by 15 to 30 inches deep (claim 2), or 24 inches wide by 28 inches high by 28 inches deep (claim 3) since applicant has not disclosed that these ranges solve any particular problem or purpose and it appears other similar ranges would work equally well.

Furthermore, routine experimentation would lead one of ordinary skill in the art to these ranges.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Beach whose telephone number is 571.272.6988. The examiner can normally be reached on Monday-Friday, 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571.272.6998. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/758,516

Page 5

Art Unit: 3671

Thomas A. Beach

November 22, 2006

**THOMAS A. BEACH**  
Primary Examiner  
Group 3600

JFW

PTO/SB/21 (09-06)

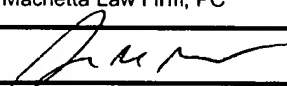
Approved for use through 03/31/2007. OMB 0651-0031

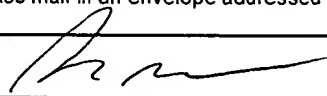
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>TYPE TRANSMITTAL FORM</b> FEB 23 2007 (to be used for all correspondence after initial filing) U.S. PATENT AND TRADEMARK OFFICE	Application Number	10/758,516	
	Filing Date	01/15/2004	
	First Named Inventor	William Orwan Wollgast	
	Art Unit	3671	
	Examiner Name	Thomas A Beach	
Total Number of Pages in This Submission	38	Attorney Docket Number	03006

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply-to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input checked="" type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Claim Listing - 4 pages; Letters from Writtenberry & O'hearn - 2 pages; Office Action Dated 11/28/06; Amendment to Specification-2pages
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Machetta Law Firm, PC		
Signature			
Printed name	Gary M. Machetta		
Date	02/19/2006	Reg. No.	53,251

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Gary M. Machetta	Date	02/19/2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# **FEE TRANSMITTAL** **For FY 2007**

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 100.00

## **Complete if Known**

Application Number 10/758,516  
Filing Date 01/15/2004  
First Named Inventor William Orman Wollgast  
Examiner Name Thomas A. Beach  
Art Unit 3671  
Attorney Docket No. 03006

## **METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):

☒ Deposit Account Deposit Account Number: 502987 Deposit Account Name: Machetta Law Firm, PC

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## **FEE CALCULATION**

### **1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

### **2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims Extra Claims Fee (\$) Fee Paid (\$)  
10 - 20 or HP = 0 x = 0

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims Extra Claims Fee (\$) Fee Paid (\$)  
4 - 3 or HP = 1 x \$100 = \$100

HP = highest number of independent claims paid for, if greater than 3.

### **3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$) Fee Paid (\$)  
- 100 = / 50 = (round up to a whole number) x =


### **4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge):

Fees Paid (\$)

## **SUBMITTED BY**

Signature  Registration No. (Attorney/Agent) 53,251 Telephone 281-301-2005  
Name (Print/Type) Gary M. Machetta Date 02/19/2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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# **Notice of References Cited**

Application/Control No.

10/758,516

Applicant(s)/Patent Under

Reexamination

WOLLGAST ET AL.

Examiner

Thomas A. Beach

Art Unit

3671

Page 1 of 1

## **U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-3,938,680 A	02-1976	Grimes, Homer L.	414/722
*	B	US-4,068,771 A	01-1978	Zimmerman, James Eldon	414/420
*	C	US-4,903,418 A	02-1990	Loudon, Robert W.	37/301
*	D	US-5,477,627 A	12-1995	Nolin et al.	37/3
*	E	US-5,909,961 A	06-1999	Pullman, Raynie	37/444
*	F	US-6,662,480 B1	12-2003	Stevens, Timothy J.	37/444
*	G	US-2005/0036875 A1	02-2005	Downing, Bruce	414/722
*	H	US-6,928,758 B1	08-2005	Stout, Kenneth L.	37/403
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

## **FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

## **NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.